

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CREE, INC.,

Petitioner,

v.

Case No. 16-cv-1508-pp

BHB ENERGY, LLC, and
BHP ENERGY MEXICO S. DE R.L. DE C.V.,

Respondents.

**ORDER AWARDING PETITIONER FEES AND COSTS
AGAINST BHP ENERGY MEXICO S. DE R.L. DE C.V.**

Earlier in this litigation, Magistrate Judge Nancy Joseph granted the petitioner's motion to compel arbitration as to BHB Energy LLC and to stay litigation. Dkt. No. 39. After exhaustive efforts to serve BHP Energy Mexico S. de R.L. de C.V. (BHP), the petitioner moved for default judgment and sanctions against BHP and its principal Alan Barson for their "willful and repeated efforts to avoid service of process" over a ten-month period. Dkt. No. 65. On September 14, 2018, the court granted the petitioner's motion for default judgment against BHP, granted the petitioner's motion for sanctions against BHP, and denied the petitioner's motion for sanctions against non-party Alan Barson. Dkt. No. 81. The court ordered the petitioner to file an itemization supporting its request for damages relating to expenses incurred after December 7, 2016 in trying to serve BHP, explaining that it would enter

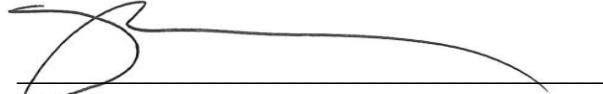
judgment after deciding the amount of sanctions. Dkt. No. 82. Neither respondent objected to the itemization filed by the petitioner.

The court awarded damages for expenses incurred after December 7, 2016, because it found that by that date Barson knew that the petitioner had named BHP as a respondent. Attorney Patrick C. Harrigan filed a declaration, because he had personal knowledge of the procedural history of the case and was lead counsel for the petitioner. Dkt. No. 82 at ¶¶2, 3. The declaration states that after Attorney Harrigan's December 7, 2016 phone call with Barson, he paid a private investigation firm \$1,000 to conduct record searches and attempt service on Barson in New York City. Id. at ¶9. He says that translation and Hague Convention form preparation fees totaled \$1,800. Id. at ¶10. Attorney Harrigan's fees for his professional services, and for those of an associate, totaled \$99,382. These fees covered the coordination of the investigation and preparation of the Hague documents, legal research regarding service on a foreign entity through the Hauge Convention and alternative means, research and preparation of an expedited motion to serve via e-mail and Facebook, service attempts, research and preparation of the motion for sanctions, and preparation for oral argument. Associated Westlaw charges totaled \$3,937.47. Id. at ¶13. The court has received no objections to the requested fees, and has no reason to question their reasonableness, given what it knows of the case.

The court **AWARDS** the petitioner sanctions in the amount of \$106,119.47 against BHP Energy Mexico, who actively avoided service, abused the judicial process and acted in bad faith.

Dated in Milwaukee, Wisconsin this 10th day of January, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge